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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

GABRIEL ENRIQUEZ,  
Plaintiff,

v.

NANCY A. BERRYHILL, Acting  
Commissioner of Social  
Security,  
Defendant.

CASE NO. EDCV 17-1651 SS

**MEMORANDUM DECISION AND ORDER**

**I.**

**INTRODUCTION**

Gabriel Enriquez ("Plaintiff") brings this action seeking to overturn the decision of the Acting Commissioner of Social Security (the "Commissioner" or "Agency") denying his applications for Child's Insurance Benefits ("CIB") and Supplemental Security Income ("SSI"). The parties consented pursuant to 28 U.S.C. § 636(c) to the jurisdiction of the undersigned United States Magistrate Judge. (Dkt. Nos. 11-13). For the reasons stated below, the decision of

1 the Commissioner is REVERSED, and this case is REMANDED for further  
2 administrative proceedings consistent with this decision.

3  
4 **II.**

5 **THE FIVE-STEP SEQUENTIAL EVALUATION PROCESS**

6  
7 To qualify for disability benefits, a claimant must  
8 demonstrate a medically determinable physical or mental impairment  
9 that prevents the claimant from engaging in substantial gainful  
10 activity and that is expected to result in death or to last for a  
11 continuous period of at least twelve months. Reddick v. Chater,  
12 157 F.3d 715, 721 (9th Cir. 1998) (citing 42 U.S.C. § 423(d)(1)(A)).  
13 The impairment must render the claimant incapable of performing  
14 work previously performed or any other substantial gainful  
15 employment that exists in the national economy. Tackett v. Apfel,  
16 180 F.3d 1094, 1098 (9th Cir. 1999) (citing 42 U.S.C.  
17 § 423(d)(2)(A)).

18  
19 To decide if a claimant is entitled to benefits, an  
20 Administrative Law Judge ("ALJ") conducts a five-step inquiry. 20  
21 C.F.R. §§ 404.1520, 416.920. The steps are:

22  
23 (1) Is the claimant presently engaged in substantial gainful  
24 activity? If so, the claimant is found not disabled. If  
25 not, proceed to step two.

26 (2) Is the claimant's impairment severe? If not, the  
27 claimant is found not disabled. If so, proceed to step  
28 three.

1 (3) Does the claimant's impairment meet or equal one of the  
2 specific impairments described in 20 C.F.R. Part 404,  
3 Subpart P, Appendix 1? If so, the claimant is found  
4 disabled. If not, proceed to step four.

5 (4) Is the claimant capable of performing his past work? If  
6 so, the claimant is found not disabled. If not, proceed  
7 to step five.

8 (5) Is the claimant able to do any other work? If not, the  
9 claimant is found disabled. If so, the claimant is found  
10 not disabled.

11  
12 Tackett, 180 F.3d at 1098-99; see also Bustamante v. Massanari,  
13 262 F.3d 949, 953-54 (9th Cir. 2001); 20 C.F.R. §§ 404.1520(b)-  
14 (g)(1), 416.920(b)-(g)(1).

15  
16 The claimant has the burden of proof at steps one through four  
17 and the Commissioner has the burden of proof at step five.  
18 Bustamante, 262 F.3d at 953-54. Additionally, the ALJ has an  
19 affirmative duty to assist the claimant in developing the record  
20 at every step of the inquiry. Id. at 954. If, at step four, the  
21 claimant meets his or her burden of establishing an inability to  
22 perform past work, the Commissioner must show that the claimant  
23 can perform some other work that exists in "significant numbers"  
24 in the national economy, taking into account the claimant's  
25 residual functional capacity ("RFC"), age, education, and work  
26 experience. Tackett, 180 F.3d at 1098, 1100; Reddick, 157 F.3d at  
27 721; 20 C.F.R. §§ 404.1520(g)(1), 416.920(g)(1). The Commissioner  
28 may do so by the testimony of a vocational expert ("VE") or by

1 reference to the Medical-Vocational Guidelines appearing in 20  
2 C.F.R. Part 404, Subpart P, Appendix 2 (commonly known as "the  
3 grids"). Osenbrock v. Apfel, 240 F.3d 1157, 1162 (9th Cir. 2001).  
4 When a claimant has both exertional (strength-related) and non-  
5 exertional limitations, the Grids are inapplicable and the ALJ must  
6 take the testimony of a VE. Moore v. Apfel, 216 F.3d 864, 869 (9th  
7 Cir. 2000) (citing Burkhart v. Bowen, 856 F.2d 1335, 1340 (9th Cir.  
8 1988)).

### 10 III.

#### 11 THE ALJ'S DECISION

12  
13 The ALJ employed the five-step sequential evaluation process  
14 and concluded that Plaintiff was not disabled within the meaning  
15 of the Act. (AR 27). At step one, the ALJ found that Plaintiff  
16 has not engaged in substantial gainful activity since August 18,  
17 1995, the alleged onset date.<sup>1</sup> (AR 20). At step two, the ALJ  
18 found that Plaintiff's attention deficit hyperactivity disorder  
19 ("ADHD"), anxiety disorder, and learning disorder are severe  
20 impairments.<sup>2</sup> (AR 20). At step three, the ALJ determined that  
21 Plaintiff does not have an impairment or combination of impairments  
22

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23 <sup>1</sup> At the administrative hearing, Plaintiff amended his onset  
24 date to June 19, 2011. (AR 36).

25 <sup>2</sup> The ALJ found that Plaintiff's medically determinable  
26 impairments of pleurisy, right ingrown toenail, erectile  
27 dysfunction, sore throat, back pain, headaches, stomach pains,  
28 rash, and a lump on leg cause only slight abnormalities that would  
have no more than a minimal effect on his ability to work and are  
therefore nonsevere. (AR 21).

1 that meet or medically equal the severity of any of the listings  
2 enumerated in the regulations. (AR 21-22).

3  
4 The ALJ then assessed Plaintiff's RFC and concluded he can  
5 perform a full range of work at all exertional levels but with the  
6 following nonexertional limitations:

7  
8 [Plaintiff] is limited to simple, routine tasks,  
9 occasional interaction with supervisors and coworkers,  
10 incidental (less than occasional) public contact, and  
11 can maintain attention and concentration for two-hour  
12 increments with normal breaks. [Plaintiff] is precluded  
13 from fast-paced work, such as work at a fast food  
14 restaurant during mealtimes or an assembly line, and  
15 concentrated exposure to respiratory irritants.

16  
17 (AR 22). At step four, the ALJ found that Plaintiff has no past  
18 relevant work. (AR 26). Based on Plaintiff's RFC, age, education,  
19 work experience, and the VE's testimony, the ALJ determined at step  
20 five that there are jobs that exist in significant numbers in the  
21 national economy that Plaintiff can perform, including hand  
22 packager, kitchen helper, and laborer. (AR 26-27). Accordingly,  
23 the ALJ found that based on the CIB application, Plaintiff was not  
24 disabled, as defined by the Act, prior to August 17, 2011, the date  
25 he attained the age of twenty-two.<sup>3</sup> (AR 27). The ALJ also found

26  
27 <sup>3</sup> To be eligible for CIB, Plaintiff must have a disability that  
28 began before the age of twenty-two. 42 U.S.C. § 402(d)(1)(B).

1 that based on the SSI application, Plaintiff has not been under a  
2 disability, as defined by the Act, since November 29, 2013, the  
3 application date. (AR 27).

#### 4 5 IV.

#### 6 STANDARD OF REVIEW

7  
8 Under 42 U.S.C. § 405(g), a district court may review the  
9 Commissioner's decision to deny benefits. "[The] court may set  
10 aside the Commissioner's denial of benefits when the ALJ's findings  
11 are based on legal error or are not supported by substantial  
12 evidence in the record as a whole." Aukland v. Massanari, 257 F.3d  
13 1033, 1035 (9th Cir. 2001) (citing Tackett, 180 F.3d at 1097); see  
14 also Smolen v. Chater, 80 F.3d 1273, 1279 (9th Cir. 1996) (citing  
15 Fair v. Bowen, 885 F.2d 597, 601 (9th Cir. 1989)).

16  
17 "Substantial evidence is more than a scintilla, but less than  
18 a preponderance." Reddick, 157 F.3d at 720 (citing Jamerson v.  
19 Chater, 112 F.3d 1064, 1066 (9th Cir. 1997)). It is "relevant  
20 evidence which a reasonable person might accept as adequate to  
21 support a conclusion." (Id.). To determine whether substantial  
22 evidence supports a finding, the court must "'consider the record  
23 as a whole, weighing both evidence that supports and evidence that  
24 detracts from the [Commissioner's] conclusion.'" Aukland, 257 F.3d  
25 at 1035 (quoting Penny v. Sullivan, 2 F.3d 953, 956 (9th Cir.  
26 1993)). If the evidence can reasonably support either affirming  
27 or reversing that conclusion, the court may not substitute its  
28 judgment for that of the Commissioner. Reddick, 157 F.3d at 720-

1 21 (citing Flaten v. Sec'y of Health & Human Servs., 44 F.3d 1453,  
2 1457 (9th Cir. 1995)).

3  
4 **V.**

5 **DISCUSSION**

6  
7 In an adult function report dated March 5, 2014, Plaintiff  
8 alleged that he is unable to work due to stress, poor concentration  
9 and memory, and an inability to follow instructions, complete tasks  
10 and get along with others. (AR 233). He has trouble sleeping and  
11 wakes up screaming due to his anxiety. (AR 234). He needs  
12 reminders, including notes and alarms, to remember to take his  
13 medications and to show up for his medical appointments. (AR 235,  
14 237). He has difficulty handling stress and changes in routine.  
15 (AR 239).

16  
17 Plaintiff spends his days watching television to relax. (AR  
18 234). He cares for his two sons with the help of his mother and  
19 girlfriend. (AR 234). He is able to prepare his own meals, but  
20 has trouble following the directions on frozen dinners and prepared  
21 foods. (AR 235, 238). He is able to perform household chores,  
22 but needs to be reminded until he completes them. (AR 235).  
23 Plaintiff does not do any yard work because he is "scared" to work  
24 with tools. (AR 236). Plaintiff is able to drive by himself and  
25 shop in stores but seldom goes outside because he is "scared" of  
26 the outside world. (AR 236). He does not socialize very much and  
27 has trouble getting along with friends, family, and authority  
28 figures due to his impairments. (AR 237-39).

1 Plaintiff testified that he is unable to work because he gets  
2 nervous and hyper, has trouble getting along with others, and  
3 cannot follow instructions due to his anxiety and ADHD. (AR 41-  
4 42, 45). Even though he tries to blend in, "everyone looks at me  
5 because I'm different." (AR 41). He was fired from his last job  
6 as a warehouse worker because he could not follow instructions and  
7 had trouble getting along with coworkers. (AR 40-41).

8  
9 Plaintiff was unable to remember his address or the age of  
10 his youngest son. (AR 37-38). When his girlfriend is at work,  
11 his two children are taken care of by his mother or his girlfriend's  
12 parents. (AR 39). He was driven to the hearing by his mother and  
13 either his girlfriend or his mother drive him to medical  
14 appointments. (AR 39). Plaintiff has a driver's license but does  
15 not drive very much or for more than five minutes because he gets  
16 "really nervous." (AR 40). He spends his days watching television  
17 but has some trouble understanding what is going on. (AR 46-47).

18  
19 When assessing a claimant's credibility regarding subjective  
20 pain or intensity of symptoms, the ALJ must engage in a two-step  
21 analysis. Trevizo v. Berryhill, 874 F.3d 664, 678 (9th Cir. 2017).  
22 First, the ALJ must determine if there is medical evidence of an  
23 impairment that could reasonably produce the symptoms alleged.  
24 Garrison v. Colvin, 759 F.3d 995, 1014 (9th Cir. 2014). "In this  
25 analysis, the claimant is not required to show that her impairment  
26 could reasonably be expected to cause the severity of the symptom  
27 she has alleged; she need only show that it could reasonably have  
28 caused some degree of the symptom." Id. (emphasis in original)



1 (citation omitted). "Nor must a claimant produce objective medical  
2 evidence of the pain or fatigue itself, or the severity thereof."  
3 Id. (citation omitted).

4  
5 If the claimant satisfies this first step, and there is no  
6 evidence of malingering, the ALJ must provide specific, clear and  
7 convincing reasons for rejecting the claimant's testimony about  
8 the symptom severity. Trevizo, 874 F.3d at 678 (citation omitted);  
9 see also Smolen, 80 F.3d at 1284 ("[T]he ALJ may reject the  
10 claimant's testimony regarding the severity of her symptoms only  
11 if he makes specific findings stating clear and convincing reasons  
12 for doing so."); Robbins v. Soc. Sec. Admin., 466 F.3d 880, 883  
13 (9th Cir. 2006) ("[U]nless an ALJ makes a finding of malingering  
14 based on affirmative evidence thereof, he or she may only find an  
15 applicant not credible by making specific findings as to  
16 credibility and stating clear and convincing reasons for each.").  
17 "This is not an easy requirement to meet: The clear and convincing  
18 standard is the most demanding required in Social Security cases."  
19 Garrison, 759 F.3d at 1015 (citation omitted).

20  
21 In discrediting the claimant's subjective symptom testimony,  
22 the ALJ may consider the following:

23  
24 (1) ordinary techniques of credibility evaluation, such  
25 as the claimant's reputation for lying, prior  
26 inconsistent statements concerning the symptoms, and  
27 other testimony by the claimant that appears less than  
28 candid; (2) unexplained or inadequately explained

1 failure to seek treatment or to follow a prescribed  
2 course of treatment; and (3) the claimant's daily  
3 activities.

4  
5 Ghanim v. Colvin, 763 F.3d 1154, 1163 (9th Cir. 2014) (citation  
6 omitted). Inconsistencies between a claimant's testimony and  
7 conduct, or internal contradictions in the claimant's testimony,  
8 also may be relevant. Burrell v. Colvin, 775 F.3d 1133, 1137 (9th  
9 Cir. 2014); Light v. Soc. Sec. Admin., 119 F.3d 789, 792 (9th Cir.  
10 1997). In addition, the ALJ may consider the observations of  
11 treating and examining physicians regarding, among other matters,  
12 the functional restrictions caused by the claimant's symptoms.  
13 Smolen, 80 F.3d at 1284; accord Burrell, 775 F.3d at 1137. However,  
14 it is improper for an ALJ to reject subjective testimony based  
15 "solely" on its inconsistencies with the objective medical evidence  
16 presented. Bray v. Comm'r of Soc. Sec. Admin., 554 F.3d 1219, 1227  
17 (9th Cir. 2009) (citation omitted).

18  
19 Further, the ALJ must make a credibility determination with  
20 findings that are "sufficiently specific to permit the court to  
21 conclude that the ALJ did not arbitrarily discredit claimant's  
22 testimony." Tommasetti v. Astrue, 533 F.3d 1035, 1039 (9th Cir.  
23 2008) (citation omitted); see Brown-Hunter v. Colvin, 806 F.3d 487,  
24 493 (9th Cir. 2015) ("A finding that a claimant's testimony is not  
25 credible must be sufficiently specific to allow a reviewing court  
26 to conclude the adjudicator rejected the claimant's testimony on  
27 permissible grounds and did not arbitrarily discredit a claimant's  
28 testimony regarding pain.") (citation omitted). Although an ALJ's

1 interpretation of a claimant's testimony may not be the only  
2 reasonable one, if it is supported by substantial evidence, "it is  
3 not [the court's] role to second-guess it." Rollins v. Massanari,  
4 261 F.3d 853, 857 (9th Cir. 2001).

5  
6 The ALJ found that Plaintiff's "medically determinable  
7 impairments could reasonably be expected to cause some of the  
8 alleged symptoms," and the ALJ did not make a finding of  
9 malingering. (AR 24). Nevertheless, the ALJ concluded that  
10 Plaintiff's statements were "not credible to the extent they are  
11 inconsistent with the . . . residual functional capacity  
12 assessment." (AR 24). However, the ALJ must take into account  
13 the claimant's subjective symptoms before determining the RFC.  
14 Laborin v. Berryhill, 867 F.3d 1151, 1154 (9th Cir. 2017). "To  
15 determine the RFC first and then assess the claimant's testimony  
16 is to put the cart before the horse." Revels v. Berryhill, 874  
17 F.3d 648, 666 (9th Cir. 2017) (emphasis in original) (citation and  
18 alterations omitted); see Laborin, 867 F.3d at 1154 ("Because the  
19 claimant's symptom testimony must be taken into account when the  
20 ALJ assesses the claimant's RFC, it cannot be discredited because  
21 it is inconsistent with that RFC."). While this approach may not  
22 be reversible error, when combined with the ALJ's failure to  
23 provide clear and convincing reasoning for rejecting Plaintiff's  
24 subjective symptoms, the Court concludes that the ALJ's failure to  
25 credit Plaintiff's testimony was error. See Revels, 874 F.3d at  
26 666. As discussed below, the ALJ did not consider Plaintiff's  
27 subjective statements in light of his mental impairments.

1       The ALJ found that Plaintiff "attempted to minimize his daily  
2 activities." (AR 23). "ALJs must be especially cautious in  
3 concluding that daily activities are inconsistent with testimony  
4 about pain, because impairments that would unquestionably preclude  
5 work and all the pressures of a workplace environment will often  
6 be consistent with doing more than merely resting in bed all day."  
7 Garrison, 759 F.3d at 1016. If a claimant's level of activity is  
8 inconsistent with the claimant's asserted limitations, it has a  
9 bearing on credibility. Id. "Though inconsistent daily activities  
10 may provide a justification for rejecting symptom testimony, the  
11 mere fact that a plaintiff has carried on certain daily activities  
12 does not in any way detract from her credibility as to her overall  
13 disability." Revels, 874 F.3d at 667 (citation and alterations  
14 omitted); see Orn v. Astrue, 495 F.3d 625, 639 (9th Cir. 2007)  
15 ("This court has repeatedly asserted that the mere fact that a  
16 plaintiff has carried on certain daily activities does not in any  
17 way detract from her credibility as to her overall disability.")  
18 (citation and alterations omitted). Indeed, a claimant "does not  
19 need to be utterly incapacitated in order to be disabled." Benecke  
20 v. Barnhart, 379 F.3d 587, 594 (9th Cir. 2004) (citation omitted).

21  
22       Here, the ALJ contends Plaintiff's allegations that he was  
23 "unable to be his children's primary caregiver, did not go out  
24 often, and rarely interacted with others," were inconsistent with  
25 his prior statements and his admissions to the consultative  
26 examiner. (AR 23, 24). To the contrary, Plaintiff consistently  
27 stated that he cannot take care of his children alone and avoids  
28 going outside and interacting with others. He is able to care for

1 his older child only while they are both on the couch watching  
2 television. (AR 39). Otherwise, he relies on his mother, his  
3 girlfriend, and his girlfriend's parents to care for his children.  
4 (AR 39, 234). While he acknowledged going outside alone  
5 occasionally, he emphasized that he does so only when absolutely  
6 necessity because he is "scared of the outside world." (AR 236,  
7 392). Plaintiff does not socialize very much and has difficulty  
8 getting along with friends, family, coworkers, and authority  
9 figures. (AR 40-41). He reported to the consultative examiner  
10 that he "does not like being around people and becomes nervous and  
11 anxious." (AR 391).

12  
13 The ALJ also relied improperly on Plaintiff's statements that  
14 he is "able to drive himself to appointments or run errands" and  
15 has "no trouble with personal care, [is] able to prepare simple  
16 meals, and do some household chores." (AR 23). However, "[t]hat  
17 [Plaintiff] could participate in some daily activities does not  
18 contradict the evidence of otherwise severe problems that [he]  
19 encountered in [his] daily life during the relevant period."  
20 Diedrich v. Berryhill, 874 F.3d 634, 643 (9th Cir. 2017). Further,  
21 the ALJ did not explain how Plaintiff's daily activities are  
22 transferable to a work setting. "House chores, cooking simple  
23 meals, self-grooming, paying bills, [and] writing checks, . . . as  
24 well as occasional shopping outside the home, are not similar to  
25 typical work responsibilities." Diedrich, 874 F.3d at 643.  
26 Moreover, "if a claimant is able to spend a substantial part of  
27 his day engaged in pursuits involving the performance of physical  
28 functions that are transferable to a work setting, a specific

1 finding as to this fact may be sufficient to discredit an allegation  
2 of disabling excess pain." Fair, 885 F.2d at 603 (emphasis in  
3 original). Nevertheless, the ALJ "must make specific findings  
4 relating to the daily activities and their transferability to  
5 conclude that a claimant's daily activities warrant an adverse  
6 credibility determination." Orn, 495 F.3d at 639 (citation and  
7 alteration omitted). Here, the ALJ neither made specific findings  
8 nor pointed to any record evidence to support her conclusion that  
9 Plaintiff's daily activities are "transferable" to a work setting.  
10 See id. Plaintiff's uncontradicted evidence of numerous  
11 unsuccessful work attempts may suggest otherwise.

12  
13 The ALJ concluded that Plaintiff's "degree of self-asserted  
14 limitations was not supported by the objective medical evidence"  
15 and opined that Plaintiff was therefore "exaggerate[ing] the  
16 severity of his symptoms." (AR 23). While inconsistencies with  
17 the objective medical evidence cannot be the sole ground for  
18 rejecting a claimant's subjective testimony, it is a factor that  
19 the ALJ may consider when evaluating credibility. Bray, 554 F.3d  
20 at 1227; Burch v. Barnhart, 400 F.3d 676, 681 (9th Cir. 2005);  
21 Rollins, 261 F.3d at 857; see SSR 16-3p, at \*5 ("objective medical  
22 evidence is a useful indicator to help make reasonable conclusions  
23 about the intensity and persistence of symptoms, including the  
24 effects those symptoms may have on the ability to perform work-  
25 related activities").

26  
27 The ALJ emphasized that mental status examinations by  
28 Plaintiff's primary care physician invariably found that Plaintiff

1 was fully oriented with appropriate mood and affect. (AR 24-25;  
2 see id. 331, 334-35, 348, 356, 361, 364, 368, 374, 402, 413, 416,  
3 422, 437, 482, 487, 497-98). However, these mental status  
4 examinations were a small, perfunctory part of a general physical  
5 examination by a doctor who was not a mental health specialist.  
6 These examinations did not evaluate other aspects of Plaintiff's  
7 mental health, including thought content, thought process,  
8 perception, cognition, insight, attitude, behavior, speech, or  
9 judgment. Despite these "normal" examinations, Plaintiff's primary  
10 care physician diagnosed attention deficit disorder ("ADD"), ADHD,  
11 panic disorder, and adjustment disorder with anxiety and  
12 depression, and referred him for a psychiatric evaluation. (AR  
13 344, 348, 443). Further, the consultative examiners found on  
14 examination that Plaintiff had low average mental functioning,  
15 pressured speech, labile and irritable affect, anxious and  
16 dysphoric mood, impaired attention and concentration, limited fund  
17 of knowledge, and fair judgment. (AR 298-99, 392-93). While  
18 Plaintiff occasionally presented to his treating psychiatrist with  
19 minimal symptoms, on other occasions he had impaired judgment,  
20 irritable or anxious mood, tense posture, accelerated activity,  
21 and constricted affect. (AR 426, 453, 498). In September 2015,  
22 Plaintiff's treating psychiatrist diagnosed major depressive  
23 disorder and ADHD and assigned a Global Assessment of Functioning  
24 ("GAF") score of 50.<sup>4</sup> (AR 425). The Ninth Circuit has repeatedly

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25 <sup>4</sup> "A GAF score is a rough estimate of an individual's  
26 psychological, social, and occupational functioning used to reflect  
27 the individual's need for treatment." Vargas v. Lambert, 159 F.3d  
28 1161, 1164 n.2 (9th Cir. 1998). The GAF includes a scale ranging  
from 0-100, and indicates a "clinician's judgment of the  
individual's overall level of functioning." American Psychiatric

1 cautioned ALJs that "while discussing mental health issues, it is  
2 error to reject a claimant's testimony merely because symptoms wax  
3 and wane in the course of treatment." Garrison, 759 F.3d at 1017;  
4 accord Diedrich, 874 F.3d at 642. "Cycles of improvement and  
5 debilitating symptoms are a common occurrence, and in such  
6 circumstances it is error for an ALJ to pick out a few isolated  
7 instances of improvement over a period of months or years and to  
8 treat them as a basis for concluding a claimant is capable of  
9 working." Garrison, 759 F.3d at 1017; see Diedrich, 874 F.3d at  
10 642 ("[T]he fact that Diedrich was not exhibiting certain symptoms  
11 at the time of her appointment on a particular day does not indicate  
12 that Diedrich was not experiencing those symptoms generally or at  
13 other pertinent times.").

14  
15 The ALJ failed to properly consider Plaintiff's GAF scores,  
16 giving them "limited evidentiary value." (AR 25). Plaintiff was  
17 assigned various GAF scores, ranging from 50 to 61.<sup>5</sup> (AR 300, 393,  
18 425, 497). "Although GAF scores, standing alone, do not control

19 Association, Diagnostic and Statistical Manual of Mental Disorders  
20 32 (4th ed. text rev. 2000) (hereinafter DSM-IV). According to  
21 DSM-IV, a GAF score between 41 and 50 describes "serious symptoms"  
22 or "any serious impairment in social, occupational, or school  
23 functioning." Id. 34.

24  
25 <sup>5</sup> A GAF score between 51 and 60 indicates moderate symptoms  
26 (e.g., flat affect and circumlocutory speech, occasional panic  
27 attacks) or moderate difficulty in social, occupational, or school  
28 functioning (e.g., few friends, conflicts with peers or co-  
workers). DSM-IV 34. A GAF score between 61 and 70 indicates some  
mild symptoms (e.g., depressed mood and mild insomnia or some  
difficulty in social, occupational, or school functioning (e.g.,  
occasional truancy, or theft within household), but generally  
functioning well, has some meaningful interpersonal relationships.  
Id.



1 determinations of whether a person's mental impairments rise to  
2 the level of a disability (or interact with physical impairments  
3 to create a disability), they may be a useful measurement."  
4 Garrison, 759 F.3d at 1003 n.4. Thus, while GAF scores are not  
5 dispositive, they are nonetheless relevant and must be properly  
6 considered. Graham v. Astrue, 385 F. App'x 704, 706 (9th Cir.  
7 2010).

8  
9 Finally, the ALJ failed to consider Plaintiff's many attempts  
10 to work. Plaintiff reported losing fifteen jobs prior to January  
11 2013 due to his poorly controlled ADHD. (AR 346; see id. 213).  
12 "It does not follow from the fact that a claimant tried to work  
13 for a short period of time and, because of his impairments, failed,  
14 that he did not then experience pain and limitations severe enough  
15 to preclude him from maintaining substantial gainful employment."  
16 Lingenfelter v. Astrue, 504 F.3d 1028, 1038 (9th Cir. 2007)  
17 (emphasis in original). Thus, "evidence that a claimant tried to  
18 work and failed actually support[s] his allegations of disabling  
19 pain." Id. (emphasis in original).

20  
21 In sum, the ALJ failed to provide clear and convincing  
22 reasons, supported by substantial evidence, for rejecting  
23 Plaintiff's subjective symptoms. The matter is remanded for  
24 further proceedings.<sup>6</sup> On remand, the ALJ shall reevaluate

25  
26  
27 <sup>6</sup> Plaintiff also argues that in assessing his RFC, the ALJ  
28 failed to fully account for the limitations opined by Drs. Cash  
and Unwalla. (Dkt. No. 20 at 16-17). However, it is unnecessary  
to reach Plaintiff's arguments on this ground, as the matter is

Plaintiff's symptoms in accordance with SSR 16-3p, taking into account the full range of medical evidence. The ALJ shall also fully develop the record to insure that all of Plaintiff's psychiatric records are included. Finally, the ALJ shall obtain evidence from a medical expert to clarify the nature and severity of Plaintiff's mental impairments and how Plaintiff's mental limitations affect his ability to work. See 20 C.F.R. §§ 404.1527(e)(2)(iii), 416.927(e)(2)(iii); SSR 96-6p, at \*4.

VI.

## CONCLUSION

Accordingly, IT IS ORDERED that Judgment be entered REVERSING the decision of the Commissioner and REMANDING this matter for further proceedings consistent with this decision. IT IS FURTHER ORDERED that the Clerk of the Court serve copies of this Order and the Judgment on counsel for both parties.

DATED: July 6, 2018

/s/  
SUZANNE H. SEGAL  
UNITED STATES MAGISTRATE JUDGE

remanded for the alternative reasons discussed at length in this Order.

1 THIS DECISION IS NOT INTENDED FOR PUBLICATION IN WESTLAW,  
2 LEXIS/NEXIS OR ANY OTHER LEGAL DATABASE.  
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